

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:19-cv-00541-D

Anne Solomon,

Plaintiff,

v.

Walmart Stores East LP,

Defendant.

Order

Plaintiff Anne Solomon asks the court to require Defendant Walmart Stores East, LP supplement its responses to her discovery requests. After holding a hearing on her motion, the court rules as follows:

1. Walmart must supplement its response to Interrogatory 10 to provide information on the “training and experience related to bicycles and their assembly” for Albert Fuentes, Rabia Bharde, and anyone else involved in assembly, inspection, testing, or sale of Solomon’s bicycle.
2. Walmart must supplement its response to Interrogatory 22 and provide the requested information for all bicycles assembled by ICSI over the requested period.
3. Walmart must search its records for advertising materials from May 2019 that respond to Request for Production 11. If any documents are located, it should produce them. If no responsive documents are located, Walmart should supplement its responses to say so.
4. Walmart must search its records for documents responsive to Request for Production 14. If any documents are located, it should produce them. If no responsive documents are located, Walmart should supplement its responses to say so.

5. Walmart must supplement its response to Request for Production 15. It must produce responsive documents that are unavailable on a state or federal electronic filings system.

6. Walmart must supplement its response to Request for Production 18 and provide personnel files for individuals personally involved in the assembling, inspecting, or testing of Solomon's bicycle.

7. For all discovery requests, Walmart need only provide documents or information that are within its possession, custody, or control.

8. To the extent that the court has not granted the motion, it is denied.

9. Walmart must supplement its discovery responses within 14 days from the date of entry of this order.

Solomon also asks to recover the costs and fees she incurred in making her motion. The party making a discovery request has a right to recover the costs, including reasonable attorneys' fees, related to a motion to compel if a party produces the requested documents or information after the motion was filed. Fed. R. Civ. P. 37(a)(5)(A).

But the court must not order payment of costs and fees if the movant did not make a good faith attempt to resolve the issue without court involvement; the opposing party's objection was substantially justified; or an award would be unjust. *Id.*

After considering Walmart's arguments made at the hearing on this matter, the court determines that it is appropriate to award Solomon the fees and expenses she incurred in connection with her motion. Walmart produced the bulk of the information at issue after Solomon filed her motion. And none of the listed exceptions apply in this case.

So the court orders that Walmart's counsel must pay the reasonable expenses, including attorneys' fees, Solomon incurred in bringing her Motion to Compel. Within 14 days after entry

of this order, the parties must meet and confer to agree upon the amount of expenses and attorneys' fees that Solomon's counsel should recover for their work on these motions. If the parties cannot agree on the appropriate amount of fees and expenses, they should contact the undersigned's case manager and the court will set a hearing to resolve the matter.

Dated: January 25, 2021.

A handwritten signature in black ink, reading "Robert T. Numbers, II". The signature is written in a cursive style with a horizontal line underneath.

ROBERT T. NUMBERS, II
UNITED STATES MAGISTRATE JUDGE